



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2016-0052]

Environmental Impact and Related Procedures

AGENCY: Federal Railroad Administration (FRA), Department of Transportation.

ACTION: Notice.

SUMMARY: FRA is issuing this notice to solicit public comments on the potential application of 23 CFR part 771, Environmental Impact and Related Procedures, to railroad projects. Part 771 currently prescribes the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) procedures for implementing the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 et seq.) and 23 U.S.C. 139, Efficient Environmental Reviews for Project Decisionmaking. FRA would further develop the application of 23 CFR part 771 to railroad projects in a rulemaking proceeding.

DATES: FRA must receive written comments on this notice on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. FRA will consider comments received after this date to the extent practicable.

ADDRESSES: Comments: Persons providing comments related to docket number FRA-2016-0052 must do so by any of the following methods:

- Online: Comments should be filed at the Federal eRulemaking Portal, <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, W12-140, Washington, DC 20590.
- Hand Delivery: Room W12-140 on the Ground level of the West Building, 1200 New Jersey Ave. SE, Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 202-493-2251.

Instructions: All submissions must include the agency name, docket name and docket number for this notice. Note that FRA will post all comments received without change to <http://www.regulations.gov>, including any personal information provided.

Docket: To access the docket or read background documents or comments received, go to <http://www.regulations.gov> at any time, or to the U.S. Department of Transportation, Docket Operations, M-30, West Building, Ground Floor, Room W12-140, 1200 New Jersey Ave. SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Johnsen, Environmental and Corridor Planning Division, Office of Program Delivery, Federal Railroad Administration, 1200 New Jersey Ave. SE, Washington, DC 20590 or by telephone at 202-493-1310 or Mr. Chris Van Nostrand, Attorney-Advisor, Office of Chief Counsel, Federal Railroad Administration, 1200 New Jersey Ave, SE, Washington, DC 20590 or by telephone at 202-493-6058.

SUPPLEMENTARY INFORMATION:

On December 4, 2015, the President signed the Fixing America's Surface Transportation (FAST) Act into law (Public Law No. 114-94). Section 11503 of the FAST Act requires the Secretary of Transportation (Secretary), among other things, to apply, to the greatest extent feasible, the project development procedures described in 23 U.S.C. 139 (Efficient Environmental Reviews for Project Decisionmaking) to railroad projects requiring the Secretary's approval under NEPA. The Secretary must incorporate into FRA regulations and procedures for railroad projects aspects of the 23 U.S.C. 139 project development procedures, or portions thereof, which increase the efficiency of the review of railroad projects consistent with section 11503. In addition, section 11503 requires the Secretary to publish a notice of proposed rulemaking to propose new and existing categorical exclusions for railroad projects the Secretary must approve under NEPA. See 49 U.S.C. 24201(c).

In light of section 11503's requirements, FRA is evaluating whether to apply 23 CFR part 771 to railroad projects. Part 771 currently prescribes FHWA and FTA procedures for implementing NEPA, including 23 U.S.C. 139 requirements. In FRA's view, applying part 771 to railroad projects may be the most efficient way to comply with section 11503 and promote consistency in FTA, FHWA, and FRA environmental reviews. In addition, FRA would not need to develop entirely new NEPA regulations for railroad projects. FRA, in conjunction with FHWA and FTA, would engage in a rulemaking to revise part 771 to make it applicable to railroad projects before such an approach would become effective. FRA seeks input from interested parties, stakeholders, and the public on this proposal.

Issued in Washington D.C. on June 3, 2016.

Sarah E. Feinberg,
Administrator.

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